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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,448	08/02/2001	Edward Moore	1468-002	6114

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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/921,448

Applicant(s)

MOORE, EDWARD

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-24 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the subcombination of claims 25-28 is permissible to be retained with the main combination. This is not found persuasive because the non-elected subcombination has a separate status in the art requiring different classification.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-9, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 336,220 to Farrar.

Farrar discloses a chair that includes all the limitations recited in claims 1, 6-9, and 13. Farrar shows a chair having a securable base B (Fig. 1), a telescopically extendable cantilever arm B<sup>6</sup> (Fig. 1) pivotally connect to the base, a height adjustable seat D (Fig. 1) rotatably attached to a first end of the cantilever arm, a brake B<sup>4</sup> (Fig. 2) inhibiting rotation of the first end of the cantilever arm, and a stop C<sup>4</sup> (Fig. 1) that inhibits telescopic extension of two members of the cantilever arm.

5. Claims 1, 6-9, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,437,495 to Wu.

Wu discloses a chair that includes all the limitations recited in claims 1, 6-9, and 13. Wu shows a chair having a securable base 12 (Fig. 1), a telescopically extendable cantilever arm 20 (Fig. 1) pivotally connect to the base, a height adjustable seat 52 (Fig. 1) rotatably attached to a first end of the cantilever arm, a brake 61 (Fig. 1) inhibiting rotation of the first end of the cantilever arm, and a stop (see Fig. 1) that inhibits telescopic extension of two members of the cantilever arm.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-5 and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar in view of U.S. Patent No. 1,271,170 to Jellinek et al.

Farrar discloses a chair that is basically the same as that recited in claims 2-5 and 18-24 except that the cantilever arm lacks a brake extending to the ground from the first end of the cantilever arm, as recited in the claims. Jellinek et al. show a chair similar to that of Farrar wherein the arm 14 (Fig. 1) has a brake 23 (Fig. 1) that contacts the ground upon movement of the seat 27 (Fig. 1) to inhibit rotation of the first end of the arm. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Farrar such that the brake extends from the cantilever arm to contact the ground upon tilting of the seat, such as the chair disclosed in Jellinek et al. One would have been motivated to make such a modification in view of the suggestion in Jellinek et al. that the seat-activated brake secures the seat when in an operative position.

8. Claims 9-12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar in view of U.S. Patent No. 2,578,373 to Powell.

Farrar discloses a chair that is basically the same as that recited in claims 9-12 and 17 except that the seat lacks a back support, as recited in the claims. See Figure 1 of Farrar for the teaching that the chair has a removable knee rest. Powell shows a chair similar to that of Farrar wherein the seat has a back support. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Farrar such that the seat has a back support, such as the chair disclosed in Powell. One would have been motivated to make such a modification in view of the suggestion in Powell that the seat with a back support comfortably supports that back of the occupant.

9. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar in view of U.S. Patent No. 2,848,037 to MacKnight.

Farrar discloses a chair that is basically the same as that recited in claims 14-16 except that the chair lacks a leveler, as recited in the claims. MacKnight shows a chair similar to that Farrar wherein the base 105 (Fig. 1) is secured to the surface 101 (Fig. 3) by a leveler 115 (Fig. 3) having an interconnected threaded member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Farrar such that the base is secured to the ground surface by a leveler having three interconnected threaded members. One would have been motivated to make such a modification in view of the suggestion in MacKnight that the threaded member secured to the patient's chair surface securely positions the base of the chair.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to chairs with extendable cantilever arms:

U.S. Pat. No. 415,307 to Carrick	U.S. Pat. No. 937,625 to Mead
U.S. Pat. No. 1,352,409 to Hoefener	U.S. Pat. No. 1,686,464 to Perry
U.S. Pat. No. 2,087,932 to Zola et al.	U.S. Pat. No. 2,449,385 to Johnson et al.
U.S. Pat. No. 4,699,423 to Fitzig et al.	U.S. Pat. No. 5,496,090 to Emmett et al.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE  
December 15, 2002

  
**PETER R. BROWN**  
**PRIMARY EXAMINER**